

What is the difference between voluntary and involuntary commitment?

Involuntary means that a person has been committed by the court or brought to the facility during an emergency and is unwilling, or unable, to agree to being admitted. **Voluntary** means that a person has **agreed to admission for up to 30 days. If you are there voluntarily, you may ask to leave at any time.** The facility staff may refuse your request because they believe that you need continued treatment. In order to hold you against your wishes, the facility must file a petition with the court for a **Commitment Hearing.**

What is a Commitment Hearing? It's a legal proceeding in which a judge decides if you will be discharged from the facility (allowed to leave) or if you must stay. The judge has to write an order based on "clear and convincing evidence" that you need to stay in the facility. **You will have an attorney assigned to represent you; ask the facility staff how to reach your lawyer.** The commitment hearing must be held within 5 days of your request to be released if you're there voluntarily. If you are at the facility involuntarily, the hearing must be held within 7 days of admission.

What is a treatment guardian? It is a person ordered by a judge to make mental health treatment decisions for another person. The judge must decide by "clear and convincing evidence" that the patient is incapable of making their own mental health treatment decisions. The judge may order it for up to one year. The treatment guardian still has to consult with the patient regarding opinions and decisions about any proposed treatments, including medications. The patient may appeal the appointment of the treatment guardian by filing a petition with the court within 3 calendar days of being told about the treatment guardian's decision. Ask to speak with your lawyer for more information.



**For advocacy help, contact
Disability Rights New Mexico:**

Toll-free: 1-800-432-4682

Phone: (505) 256-3100

Email: info@drnm.org

Website: www.drnm.org

**3916 Juan Tabo Blvd. NE
Albuquerque, NM 87111**

Know Your Rights

for

**Adults Receiving Services
in a
Mental Health Facility**



You have rights during your stay in a mental health facility. Your rights include:

1. The right to know why you are being held in a facility.
2. The right to a clean, safe, and comfortable environment.
3. The right to an appetizing, nourishing, well-balanced, and varied diet of food.
4. The right to reasonable privacy in sleeping and personal hygiene practices, including a clean and comfortable bed and secure storage for your personal belongings.
5. Right to daily physical, outdoor exercise including access to recreational areas and equipment.
6. The right to be involved and help in the development of your treatment plan.
7. Right to see daily visitors of your choice.
8. Right to make phone calls with reasonable privacy.
9. Right to send and receive mail that is sealed and uncensored. Stamps and writing materials should be given to you.

10. The right to participate in religious worship and freedom from pressure to do so or to accept any religious beliefs. This includes the right to meet with clergy or leader from any faith tradition.
11. Right to meet privately with your attorney, physician, social worker, or psychologist.
12. Right to call or meet with an attorney at any time and to be represented by an attorney in all legal proceedings.
13. Right to call Disability Rights New Mexico (DRNM) at any time at (505) 256-3100, including outside regular phone or visiting hours.
14. Right to participate in the legal process whenever you believe that any of your rights have been taken away.
15. Freedom from unnecessary or excessive medication.
16. Freedom from seclusion or restraint, except when necessary to prevent injury to your self or others, or if your behavior causes substantial interference with treatment on the unit.
17. Right to confidentiality of your medical records, including the fact that you're receiving treatment or have ever received mental health services. You have the right to get copies of your medical records, and the right to clarify or correct what you think is inaccurate.

Your rights (continued)...

A provider may deny your request to see your records if they believe that reading them would be harmful to you. But you can appeal this decision by asking the court for an order allowing you to read your medical records.

18. Right to refuse treatment, including medication. You must understand all information given to you about the proposed treatment. Your consent must be voluntary and not given under force or threats of any kind. You have the right to withdraw your consent for treatment at any time. If a licensed physician believes that giving you psychotropic medication is necessary to protect you from serious harm, it can be given to you on an emergency basis without your consent. The physician must record in your medical file why emergency medication had to be given without your consent.

Note: Some of these rights may be restricted by a clinician for safety or therapy-related reasons. Your provider should tell you when and why your rights are restricted.

Legal authority:

NMSA 1978, Chapter 43, Article 1